

**WAC 220-77-0900C**

**Ballast water management and control—Reporting and sampling requirements.**

Notwithstanding the provisions of WAC 220-77-090: [All provisions are listed in this document]

(1) Vessels that are subject to chapter 77.120 RCW must report ballast water management information at least twenty-four hours prior to entering Washington waters by filing a ballast water reporting form pursuant to Title 33 C.F.R. Part 151.2045. Forms must be submitted in electronic format (preferred) or by fax to:

- (a) The department, at ballastwater@dfw.wa.gov or 360-902-2845, for any vessel entering state waters at any location; or
- (b) The Marine Exchange of Puget Sound in Seattle, at waballast@aol.com or 206-443-3839, for vessels bound for Puget Sound or coastal ports; or
- (c) The Merchants Exchange of Portland, at marine.room@pdxmex.com or 503-295-3660, for vessels bound for Washington ports on the Columbia River.

(2) Vessels not intending to discharge ballast water into Washington state waters shall notify the department in one of the following ways:

(a) Owners or operators of one or more vessels who do not wish to file a ballast water reporting form may send a signed form letter, as provided by the department and at least thirty days prior to entering Washington waters, to the department by e-mail at ballastwater@dfw.wa.gov; by fax at 360-902-2845; or by U.S. mail to the ANS Coordinator, Department of Fish and Wildlife, 600 Capitol Way No., Olympia, WA 98501-1091. The signed letter must include the following information:

- (i) Vessel name(s), identification number(s) (International Maritime Organization, Lloyds of London, or U.S. Coast Guard registry number), owner, agent, and vessel type(s);
  - (ii) A statement that the vessel will not discharge ballast water into Washington state waters;
  - (iii) A statement that if the vessel does need to discharge on a voyage, they will file a ballast water report 24 hours prior to discharge; and
  - (iv) The signature of the owner, operator, or other authorized representative.
- (b) Vessels that would normally discharge ballast water, but will not discharge on a particular trip, may file the ballast water reporting form at least twenty-four hours prior to entering Washington waters, with "NOT DISCHARGING" written in the ballast water history section.

(3) The department, or designated representatives, may at reasonable times and in a reasonable manner, during a vessel's scheduled stay in port, take samples of ballast water and sediment, may examine ballast water management records, and may make other appropriate inquiries to assess the compliance of vessels with ballast water reporting and control requirements.

(4) Vessel operators claiming a safety exemption under RCW 77.120.030(4) must notify the department of their intent to do so on the ballast water reporting form as required in subsection (1) of this section. Notification requires writing the words "SAFETY EXEMPTION" on the form

where it asks "If no ballast treatment conducted, state reason why not:" and stating the cause as either "ADVERSE WEATHER," "VESSEL DESIGN LIMITATION," "EQUIPMENT FAILURE," or "EXTRAORDINARY CONDITION."

(a) No safety exemption request is required if the vessel does not intend to discharge unexchanged or untreated ballast water and the crew follows the requirements under subsection (2) of this section.

(b) Vessel operators may rescind a safety exemption claim by filing an amended ballast water reporting form and notifying the department as required in subsection (1) of this section.

(5) The department will review safety exemption claims as noted in subsections (3) and (4) of this section.

(a) The department will determine whether a compliance plan and alternative strategy are required. Compliance plans and alternative strategies will be established to minimize discharge of future unexchanged ballast water until compliance with this section can be met.

(b) The department will assess a safety exemption fee using the following as guidance:

(i) Minimum five hundred dollar fee for administrative costs to assess compliance; and

(ii) Larger fees may be assessed by the department based on vessel history, risk, and degree of failure to implement prior compliance plans and alternative strategies.

(6) The department may impose civil penalties ranging from a warning letter up to twenty-seven thousand five hundred dollars for violation of the requirements of this section pursuant to RCW 77.120.070. Each day of a continuing violation constitutes a separate violation. The department will assess civil penalties based on elements that include, but are not limited to:

(a) Degree and nature of failure in meeting reporting requirements;

(b) Degree and nature of failure in allowing reasonable department inspection of a vessel's ballast water management records or allowing samples to be taken from ballast tanks;

(c) Degree and nature of failure in preventing or stopping discharge upon request by department;

(d) Volume and risk of introducing invasive species based on the source of unexchanged or untreated discharge;

(e) Discharge of treated water using a technology that has not been approved for use in waters of the state; and

(f) Vessel and operator violation history.